

## **Interim Procedure for Submitting Notifications under the Definition of Solid Waste Final Rule**

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### **What is the purpose of the interim procedure?**

The purpose of the interim procedure is to explain how facilities<sup>1</sup> should meet their notification requirement under the Definition of Solid Waste (DSW) final rule using the existing Subtitle C Site Identification form (EPA form 8700-12).

### **What is the Definition of Solid Waste final rule and its notification requirement?**

On October 7, 2008, EPA's Administrator signed the DSW final rule (73 FR 64668, October 30, 2008), which excludes certain hazardous secondary materials that are reclaimed from the RCRA Subtitle C hazardous waste regulations, provided certain conditions and requirements are met.

One of these provisions requires facilities to submit notifications using the Site ID form prior to managing hazardous secondary materials under the exclusions and every two years thereafter to the EPA Administrator, or State Director.

### **Why is EPA issuing this "interim procedure"?**

The final rule goes into effect December 29, 2008 in states, territories, and tribal lands that are not authorized for the RCRA Subtitle C hazardous waste program. However, the process to update the Site ID form and the RCRAInfo database to reflect the new rule will likely not be completed by the time some facilities are required to notify. Thus, we are issuing this interim procedure to explain how facilities should meet the notification requirement using the existing Site ID form.

### **When will facilities start submitting notifications under the final rule?**

Facilities in a state or territory without an authorized RCRA program (i.e., Alaska, Iowa, U.S. Virgin Islands, American Samoa, and the Northern Mariana Islands) and tribal lands are eligible for the new DSW exclusions (and thus can submit notifications under the final rule) beginning December 29, 2008.

Facilities in a state with an authorized RCRA program are not eligible for the DSW

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<sup>1</sup> We use the term "facilities" to refer to hazardous secondary material generators, tolling contractors, toll manufacturers, reclaimers and intermediate facilities managing hazardous secondary materials under 40 CFR 261.2(a)(2)(ii), 40 CFR 261.4(a)(23), (24), or (25).

exclusions (and thus should not submit notifications under the final rule) unless and until their state adopts the rule into its own state regulations and becomes authorized for the rule.

## How should facilities use the existing Site ID form to submit notifications under the final rule?

Facilities should submit the required notification information (listed under 40 CFR 260.42) using the existing federal Site ID form (found at <http://www.epa.gov/epawaste/inforesources/data/form8700/8700-12.pdf>; the form starts on page 41) using the following steps:

- ⇒ **STEP 1:** Under "Reason for Submittal," check the box as follows:
  - If this is the first time the facility has ever submitted a Site ID form, check the box marked "To provide initial Notification..."
  - If this is NOT the first time the facility has submitted a Site ID form, check the box marked "To provide Subsequent Notification..."
- ⇒ **STEP 2:** Complete the Site ID form as applicable for your facility.
- ⇒ **STEP 3:** Copy and paste each row from the example DSW notification below into the rows in the "Comments" box (#12 on the Site ID form) or attach an additional page. (If using an additional page, enter "see additional page" in the Comments box.)
- ⇒ **STEP 4:** Delete all the information appearing in ***bold italics*** (copied and pasted from the example DSW notification) - you'll now enter in your facility's information using Steps 5-7.

### Example DSW Notification (to be copied into Site ID form):

|  |
|--|
| 1. Start date for managing hazardous secondary materials (HSM) under the exclusion(s) (mm/yyyy): <b><i>03/2009</i></b> |
| 2. Facility Code(s) / Type of HSM / Estimated tons to be managed annually / Managed in land-based unit(s)?             |
| <b><i>(a) 01 / F005 / 500 tons / No; (b) 06 / F005 / 3,000 tons / No; (c) 06 / K061 / 20,000 tons / No</i></b>         |
| 3. Facility has financial assurance? (Yes, No, or N/A): <b><i>N/A</i></b>  |

- ⇒ **STEP 5:** For #1, "Start date for managing hazardous secondary materials (HSM) under the exclusion(s)": List the date when you will begin managing the hazardous secondary material(s) under 40 CFR 261.2(a)(2)(ii), §261.4(a)(23), (24), or (25). If you will start managing hazardous

secondary material(s) on different dates, provide the earliest date. Enter date in the format "mm/yyyy" (as shown in the example above).

⇒ **STEP 6:** For #2, "**Facility Code(s)/ Type of HSM / Estimated tons to be managed annually / Managed in land-based unit(s)?**": List by facility code each type of hazardous secondary material you manage under the final rule, the estimated quantities in tons for each hazardous secondary material, and whether you will manage any of the hazardous secondary material in a land-based unit. Use the following instructions as guidance:

- **Facility Code(s)-** Using table 1 on page 6 of this interim procedure, enter the appropriate 2-digit code that correctly describes your facility. If more than one code applies to your facility, enter each 2-digit code as a separate item. For instance, in the example above, two facility codes apply to the facility. Because this facility also manages three types of hazardous secondary materials, this facility reports its information as three separate items (a, b, and c; as further described below under "Type of HSM").
- **Type of HSM-** For each facility code, enter the appropriate 4-digit hazardous waste code(s) that would apply to your hazardous secondary material if you managed it as hazardous waste (i.e., the hazardous waste codes that would apply to your material if you did not manage it in accordance with Part 261.2(a)(2)(ii), 261.4(a)(23),(24) or (25)). For assistance, refer to 40 CFR Part 261 for a description of federally regulated hazardous waste and to your state regulations. Enter the 4-digit hazardous waste code(s) next to the appropriate facility code separating the information with a "/" (as in the example above).

If you manage more than one hazardous secondary material under the same facility code, enter each as a separate item. For instance, in the example DSW notification above, the facility manages three types of hazardous secondary materials; two of which are managed under the same facility code (facility code = 06). Thus, its information is reported as three separate items (a), (b), and (c) in order to fully describe its activities (i.e., that the facility generates and reclaims F005 under the control of the generator (**01/F005**) and generates and sends F005 and K061 off-site for reclamation (**06/F005 & 06/K061**)).

- **Estimated tons to be managed annually-** Enter your estimated average annual tonnage (short tons) for each hazardous secondary material you expect to manage under the final rule. Convert all physical quantities (e.g., gallons, cubic yards, kilograms, metric tons) to short tons (1 short ton = 2,000 pounds). Please note: your estimated annual tonnage should be for the entire amount of each hazardous secondary material to be reclaimed (NOT just the quantity of

constituent or product actually reclaimed). Once you've entered the estimated annual tonnage, enter a "/" to separate it from the next piece of information (as in the example above).

- **Managed in land-based unit(s)?**- Answer "Yes" if all or some portion of the hazardous secondary material will be managed in a land-based unit, which is defined in 40 CFR 260.10 as an area where hazardous secondary materials are placed in or on the land before reclamation (this does not include production units). Answer "No" if none of the hazardous secondary material will be managed in a land-based unit. (Once you've entered a "Yes" or "No," your row should appear similar to the example above.)

Repeat this step as many times as needed, such as if more than one type of facility code applies to you or if your facility manages more than one type of hazardous secondary material under the same facility code (as described above). If you need more room, use additional rows in the Comments box or an additional page. (If using an additional page, enter "see additional page" in the Comments box.)

- ⇒ **STEP 7:** For #3 "**Facility has financial assurance?**": Enter either "Yes," "No," or "N/A" (for not applicable) as appropriate for your facility. Under the DSW rule, only reclaimers and intermediate facilities (facility codes 07, 08, and/or 11) are **REQUIRED** to have financial assurance. All other facilities (facilities not using facility codes 07, 08, and/or 11) can enter "N/A."
- ⇒ **STEP 8:** Sign and date the certification. This certification must be signed by the operator(s), owner(s), or authorized representative(s) of the site. An "authorized representative" is a person responsible for the overall operation of the site (i.e., a plant manager or superintendent, or a person of equal responsibility). See 40 CFR 260.10.
- ⇒ **STEP 9:** Submit completed Site ID forms to the appropriate EPA Regional or State Office. A list of contacts can be found here:  
<http://www.epa.gov/epawaste/inforesources/data/form8700/contact.pdf>.

For additional clarity, Attachment A of this interim procedure crosswalks the information required in the DSW notification (40 CFR 260.42) with boxes on the existing Site ID form.

## When does EPA expect to complete the changes to the Site ID form and RCRAInfo database?

EPA expects to complete modifications to the Site ID form in late 2009 and the RCRAInfo database in the spring of 2010. Facilities may start using the revised Site ID form as soon as it is finalized (expected late 2009).

## Where should I go for assistance?

You may contact your EPA Region or State using information found at:  
<http://www.epa.gov/epawaste/comments.htm>, or you may contact Amanda Geldard  
in the Office of Solid Waste at [geldard.amanda@epa.gov](mailto:geldard.amanda@epa.gov) or (703) 347-8975.

Table 1: Codes for facilities managing hazardous secondary material (HSM)

| <b>Under Control of the Generator Exclusion (40 CFR 261.2(a)(2)(ii) or 261.4(a)(23))</b> |  |
|--|--|
| 01   | <b>HSM Generator reclaiming HSM “onsite”:</b> This code applies if you generate and reclaim hazardous secondary material at your generating facility under 40 CFR Part 261.2(a)(2)(ii) or 261.4(a)(23). <i>See also paragraph (1) in the Federal definition of “Hazardous secondary material generated and reclaimed under the control of the generator” in 40 CFR Part 260.10</i>   |
| 02   | <b>HSM Generator transferring HSM to reclaimer within the “same company”:</b> This code applies if you generate hazardous secondary material and send the material for reclamation under 40 CFR Part 261.2(a)(2)(ii) or 261.4(a)(23) to a different facility that is either controlled by you or controlled by the same person that controls your generating facility. <i>See also paragraph (2) in the Federal definition of “Hazardous secondary material generated and reclaimed under the control of the generator” in 40 CFR Part 260.10.</i> |
| 03   | <b>Reclaimer receiving HSM from HSM generator within the “same company”:</b> This code applies if you receive and reclaim hazardous secondary material under 40 CFR Part 261.2(a)(2)(ii) or 261.4(a)(23) from a different facility that either controls you or is controlled by the same person that controls you. <i>See also paragraph (2) in the Federal definition of “Hazardous secondary material generated and reclaimed under the control of the generator” in 40 CFR Part 260.10.</i>   |
| 04   | <b>Tolling Contractor reclaiming HSM pursuant to a tolling contract:</b> This code applies if you are a tolling contractor that reclaims hazardous secondary material pursuant to a written contract with a toll manufacturer under 40 CFR Part 261.2(a)(2)(ii) or 261.4(a)(23). <i>See also paragraph (3) in the Federal definition of “Hazardous secondary material generated and reclaimed under the control of the generator” in 40 CFR Part 260.10.</i>   |
| 05   | <b>Toll Manufacturer managing HSM pursuant to a tolling contract:</b> This code applies if you generate and send hazardous secondary material for reclamation to a tolling contractor pursuant to a written contract under 40 CFR Part 261.2(a)(2)(ii) or 261.4(a)(23). <i>See also paragraph (3) in the Federal definition of “Hazardous secondary material generated and reclaimed under the control of the generator” in 40 CFR Part 260.10.</i>  |
| <b>Transfer-based Exclusion (40 CFR 261.4(a)(24))</b>                                    |  |
| 06   | <b>HSM Generator transferring HSM offsite to a domestic reclamation facility:</b> This code applies if you generate and send hazardous secondary material for reclamation to an offsite domestic reclamation facility under 40 CFR Part 261.4(a)(24).  |
| 07   | <b>Reclaimer receiving HSM from offsite:</b> This code applies if you reclaim hazardous secondary material received from an offsite domestic hazardous secondary material generator or other domestic facility under 40 CFR Part 261.4(a)(24).   |
| 08   | <b>Intermediate facility:</b> This code applies if you store (and do <u>NOT</u> generate or reclaim) hazardous secondary material that you receive from an offsite domestic hazardous secondary material generator or another domestic intermediate facility for more than ten days under 40 CFR Part 261.4(a)(24).  |
| <b>Imports/Exports (40 CFR 261.4(a)(24) or (25))</b>                                     |  |
| 09   | <b>HSM Generator exporting HSM offsite to a foreign reclamation facility:</b> This code applies if you generate and export hazardous secondary material for reclamation to a foreign reclamation facility under 40 CFR Part 261.4(a)(25).  |
| 10   | <b>HSM Generator importing HSM from a foreign entity to send to another domestic reclamation facility:</b> This code applies if you import hazardous secondary material from a foreign entity and send the material for reclamation to a domestic reclamation facility under 40 CFR Part 261.4(a)(24).   |
| 11   | <b>HSM Generator <u>AND</u> Reclaimer of imported HSM:</b> This code applies if you import hazardous secondary material from a foreign entity and reclaim the material at your facility under 40 CFR Part 261.4(a)(24).  |

**ATTACHMENT A: CROSSWALK BETWEEN NOTIFICATION REQUIREMENTS (40 CFR 260.42)  
AND THE EXISTING SITE ID FORM**

| This information...  | Should be entered in this box...                             | Using these notes...   |
|--|--|--|
| Name   | Box 3 Site Name  | For assistance, see page 14 of <a href="#">Instructions for Filling out the Site ID Form</a>   |
| Address  | Box 4 Site Location Information & Box 7 Site Mailing Address | For assistance, see page 14 and 15 of <a href="#">Instructions for Filling out the Site ID Form</a>  |
| EPA ID Number  | Box 2 EPA ID Number  | For assistance, see page 14 of <a href="#">Instructions for Filling out the Site ID Form</a>   |
| Name and telephone number of a contact person  | Box 8 Site Contact Person                                    | For assistance, see page 15 of <a href="#">Instructions for Filling out the Site ID Form</a>   |
| NAICS code of the facility   | Box 6 NAICS Code for the Site                                | For assistance, see page 14 of <a href="#">Instructions for Filling out the Site ID Form</a>   |
| The exclusion under which the hazardous secondary materials will be managed  | Box 12 Comments  | Use appropriate code from Table 1 on page 6 of this interim procedure. <i>See also example DSW Notification above on page 2.</i>   |
| Whether the reclaimer or intermediate facility has financial assurance   | Box 12 Comments  | Enter as "yes," "no," or "N/A." Financial assurance is required for reclaimers and intermediate facilities only. (Generators should enter "N/A.") <i>See also example DSW Notification above on page 2.</i>  |
| When the facility expects to begin managing hazardous secondary materials under the exclusion                                      | Box 12 Comments  | Enter as mm/yyyy<br><i>See also example DSW Notification above on page 2.</i>  |
| A list of hazardous secondary materials that will be managed under the exclusion   | Box 12 Comments  | Enter as the EPA hazardous waste code(s) that would apply if the hazardous secondary materials were managed as hazardous wastes. As with hazardous waste, more than one hazardous waste code may apply to a single hazardous secondary material. <i>See also example DSW Notification above on page 2.</i> |
| Whether the hazardous secondary material, or any portion thereof, will be managed in a land-based unit (at the notifying facility) | Box 12 Comments  | Enter as "yes" or "no." <i>See also example DSW Notification above on page 2.</i>  |
| The quantity of each hazardous secondary material to be managed annually   | Box 12 Comments  | Enter the estimated average annual tonnage (short tons) of hazardous secondary material to be managed under the final rule. <i>See also example DSW Notification above on page 2.</i>  |